

Sunset Public Hearing Questions for
STATE OIL AND GAS BOARD
Created by Section 60-1-201, *Tennessee Code Annotated*
(Sunset termination June 2011)

1. Provide a brief introduction to the State Oil and Gas Board, including information about its purpose, statutory duties, staff, and administrative attachment.

The purpose of Chapter 1 of Title 60 is to regulate oil and gas well drilling and production in Tennessee in order to prevent pollution, protect rights of parties involved, and reduce waste. The law gives some of the responsibility to the State Oil and Gas Board. It has the rulemaking authority and hearing authority. The Oil and Gas Supervisor is also given authority. The Supervisor has the authority to do inspections and to issue permits. The supervisor and staff carry out the day to day functions of the program. In these answers, we will use the term Oil and Gas Program to include both the board and the staff.

Currently, there are four employees that administer the oil and gas program, although some have other duties as well. The Supervisor and the secretary are responsible for the permitting and tracking of all information received for each permit application. In addition, the office personnel receive and log all bonds received for each permit application.

The Supervisor is responsible for the enforcement of the rules and regulations. Field personnel include three field inspectors with one position not filled. The field personnel investigate oil and gas exploration and production and enforce the rules and regulations of the Tennessee Oil and Gas Board. This includes the inspecting of each site prior to the operator receiving a permit and any complaints of violation of the rules and regulations of The Tennessee Oil and Gas Board.

2. Provide a list of current board members and describe how membership complies with Section 60-1-201, *Tennessee Code Annotated*. Are there any vacancies on the board? If so, what steps have been taken to fill the vacancies?

Board Members:

Bill Ray; represents the oil and gas property owner as required.

Brian Hensley; commissioner designee for Economic and Development.

Jim Washburn; industry representative.

Chuck Head; commissioner designee for Environment and Conservation as chairman.

Charles (Steve) Scarborough; chair of the conservation commission.

Ken Haislip; mineral industry representative.

3. Does membership include a member who is 60 years of age or older? A member of a racial minority? A female member? A public/citizen member?

There is one 73 year old board member. There is not a female member or a member of a racial minority. There is no public/citizen member since §60-1-201 does not provide for one, but the oil/gas property member has a similar role.

4. What per diem or travel reimbursement do members receive? How much was paid to board members during fiscal years 2009 and 2010?

Although board members are eligible for reimbursement for travel expenses at the state rate, they have all stated that they have not requested any reimbursements in these two years. The statute does not provide for a per diem.

5. How many times did the board meet during fiscal years 2009 and 2010, and how many members were present at each meeting?

There were three meetings for this time period; for the July 15, 2009 meeting there were all six members present, for the November 4, 2009 meeting there were 4 members present and for the May 4, 2010 meeting there were 4 members present.

6. Does the board have a web site? If so, please provide its web address. What kind of public information is provided on the site?

The Board does not have a web site, but it does have a page on the TDEC website.

<http://tennessee.gov/environment/boards/og/>

7. Describe the policies the board has in place to address potential conflicts of interest by board members and employees.

The board does not have a specific policy in place to address conflict of interest, however, it is governed by the Uniform Administrative Procedures Act on these issues. See §4-5-302.

Consideration of adoption of such a policy will be put on the agenda for the next board meeting. The program adheres to the TDEC conflict of Interest Policy.

8. Is the board subject to Sunshine law requirements (Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the board have for informing the public of its meetings and making its minutes available to the public?

The board is subject to the Sunshine law and fulfills all requirements. The oil and gas board staff places notices of all meetings on the TDEC website and a notice is placed in three major newspapers of the state to inform the public of the meeting. The minutes of all meetings are made available to the public upon request.

9. What were the board's revenues (by source) and expenditures (by object) during fiscal years 2009 and 2010?

The board does not have any revenues and since no members requested reimbursement for travel, there were no expenditures for the board either.

10. Please describe the activities within the oil and gas industry in the State of Tennessee during fiscal years 2009 and 2010, including (for each year) quantities and values of oil and gas produced and what revenues were generated during that period through the severance tax on oil and gas production. How do these numbers compare with the previous five-year period?

There is not a compilation of production for 2010. Results for 2009 follow: 278,048 Barrels (bbls) of Oil with an average price per bbl of \$53.01 at 3% severance tax rate yields \$442,179.75 in tax. Gas production for 2009 is 5,257,295 million cubic feet (mcf) with an average price of \$4.02 per mcf at 3% severance tax rate yields \$633,922.40 in tax.

Results for 2008 are as follows: 354,653 bbls of Oil with an average price of \$92.02 per bbl at a 3% severance tax rate produced \$954,223.53 in tax. Gas production for 2008 was 668,728 mcf with an average price of \$8.85 per mcf at a 3% severance tax rate yielded \$1,239,407.46 in tax.

From 2003 thru 2007 the average bbls produced for oil was 319,076 with an average price of \$46.02 per bbl of oil at a 3% severance tax rate yielded \$442,239 in tax. For wells that produced gas from 2003 thru 2007 produced the following; the average mcf produced for gas was 2,553,279 with an average price of \$6.97 per mcf at a 3% severance tax rate yielded \$534,197. Therefore, one can conclude that oil production has been steady for the period of 2003 to 2007 and slightly dipped in 2009. The production of gas has steadily climbed for the past several years due to the increased drilling of horizontal wells. There was a large spike in revenue in 2008 due the sudden increase in pricing of both oil and gas.

11. Has the board set goals and developed performance measures for each goal? What performance indicators does management use to measure the effectiveness and efficiency of the board? How well has the board performed based on those performance indicators?

The board has not set goals, but the Supervisor and staff have. They have set two goals and measured performance compared to those goals. The first performance measure is the percent of required inspections of oil and gas well sites performed. The program was able to complete 81 percent of required inspections compared to a target for FY 2004 of 90 percent. The second performance measure is the number of abandoned wells plugged and well sites reclaimed. At the conclusion of FY 2004 the program was able to plug 39 wells and reclaim the well sites compared to a target of 40 wells. Since the program was moved to the Division of Water Pollution Control in 2005, 1435 permits have been issued and the inspection staff, which has been short one authorized position since 2009, has completed at least 98 percent of the required pre-site investigations.

12. What reports or other publications, does the board prepare on its operations, activities, and accomplishments, and who receives those reports? Are there other reports required by statute, rule, or policy? If so, describe.

There are no reports conducted or required by law or regulation.

13. Has the board exercised its authority to promulgate rules and regulations as authorized at Section 60-1-202(a)(4), *Tennessee Code Annotated*? If so, please cite the reference.

Yes, the board voted for regulation changes in 2003. The current rules of the board can be found at: <http://state.tn.us/sos/rules/1040/1040.htm>

14. How many applications for permits to drill did the supervisor receive during fiscal years 2009 and 2010? Of those, how many were granted? How many were rejected? Of those rejected, what were the primary reasons for rejection?

The oil and gas program received 113 applications for permits to drill in 2009 and has received 44 in 2010. One application was rejected because of a lack of bonding and one was rejected due to insufficient landowner notification.

15. How many permits were revoked during fiscal years 2009 and 2010 and what were the reasons for the revocations?

No permits were revoked.

16. The performance audit of the State Oil and Gas Board conducted by the Division of State Audit and dated August 1996 (available online at <http://www.comptroller.state.tn.us/sa/reports/per.htm>) , contained six findings. Specifically the audit found the following:

a. The state has not developed a program to deal with abandoned wells.

Regulation changes are now under consideration that will address the abandoned well question.

b. Oil and Gas Program staff did not adequately follow up citations.

All citations have either been abated or resolved on appeal by the Administrative Judge or the board in a proper manner.

c. Submission of required well data and samples is not adequately monitored.

Currently, the oil and gas board staff has an access data base that monitors each operator for when they are required to submit material per the regulations. No operator receives any new permits until all delinquent material is received.

d. The board lacks formal conflict-of-interest procedures.

The Tennessee Oil and Gas Board will consider adoption of a policy that was developed by TDEC's Office of General Counsel at the next meeting.

e. Oil and gas field inspectors do not submit detailed monthly reports.

Currently, the oil and gas board inspectors submit monthly reports.

f. The Oil and Gas program and the Division of Geology appear to duplicate paper work and services.

The Oil and Gas program is now administered through the Division of Water Pollution Control. It and the Division of Geology maintain the records that are important to each. Some records are now kept in a database into which both divisions input information.

17. Describe any items related to the board that require legislative attention and your proposed legislative changes.

Currently, the oil and gas board staff is in the process of addressing the non producing well situation. The rule changes will also give operators the ability to keep wells they recognize as viable, but are not currently producing. The State of Tennessee has approximately 4,000 wells that need attention by the responsible operator. It is necessary for the rule changes to take place to address some of the problems facing the Oil and Gas Board.

18. Should the board be continued? Why or why not?

The Tennessee Oil and Gas Board should be continued to fulfill the roles of rulemaking and hearing appeals regarding the oil and gas program. The program is necessary to protect the environment and the rights of landowners and mineral owners.

19. Please list all board programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

Although the Council does not receive federal financial assistance, we have provided the following answers for the Department of Environment and Conservation.

If the board does receive federal assistance, please answer questions 20 through 27. If the board does not receive federal assistance, proceed directly to question 26.

20. Does your board prepare a Title VI plan? If yes, please provide a copy of the most recent plan.

The TDEC has a Title VI Plan that's developed for and applicable to all TDEC programs.

21. Does your board have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues.

The TDEC has a Title VI Coordinator and Complaint Officer.

Coordinator: Costin Shamble (615-253-8337) - Facilitate Title VI compliance activities; review data and make recommendations of actions to enhance Title VI compliance; conduct Title VI training programs; compile Department's Title VI Implementation Plan; represent the TDEC at meetings on Title VI.

Complaint Officer: M. C. Holland (615-532-0153) - Receives Title VI complaints; conducts an investigation of complaints; facilitates a remedy of Title VI concerns; makes recommendation(s) of actions needed to resolve complaint.

22. To which state or federal agency (if any) does your board report concerning Title VI? Please describe the information your board submits to the state or federal government and/or provide a copy of the most recent report submitted.

The TDEC is required to submit an annual Title VI Implementation Plan to the State Comptroller of the Treasury. Additionally, the Plan is submitted to and reviewed by the Title VI Legislative Sub-Committee of the State Legislature. A public hearing is conducted annually on the Plan. Disadvantaged business participation is submitted to the Environmental Protection Agency.

23. Describe your board's actions to ensure that board staff and clients/program participants understand the requirements of Title VI.

Internally:

- **Mandatory Civil Rights training of TDEC staff included Title VI**
- **TDEC Title VI brochure distributed to Department staff**
- **Periodic discussions with staff, Title VI related actions/activities**
- **Staff participation in training programs offered by state and federal agencies**

Externally:

- **Participation in Community Title VI workshops and conferences**
- **Contract language includes Title VI compliance**
- **Posting of Civil Rights posters**
- **Distribution of Title VI brochure**

24. Describe your board's actions to ensure it is meeting Title VI requirements. Specifically, describe any board monitoring or tracking activities related to Title VI, and how frequently these activities occur.

Minority participation in TDEC programs and activities is reviewed by the Title VI Coordinator. Activities reviewed include: representation on boards, disadvantaged business participation, and public participation. Meetings with the Commissioner's staff are held to discuss minority participation issues at least quarterly. Disadvantaged business participation is submitted quarterly to the Environmental Protection Agency. A compilation of the TDEC's minority outreach and participation is reviewed routinely and compiled annually.

25. Please describe the board's procedures for handling Title VI complaints. Has your board received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).

The TDEC did not receive a Title VI Complaint during fiscal year 2008-2009.

Complaint procedure:

Complaints must be filed in writing. The complaint should be filed on the TDEC's complaint form. The division director of the program will forward the complaint to the Title VI Complaint Officer.

TDEC will make a prompt investigation when a complaint or other information indicating a violation is received. If the investigation indicates a violation of Title VI, TDEC will notify the recipient and will attempt to resolve the matter informally. If the investigation indicates that a violation did not occur, TDEC will notify the recipient and the complainant in writing.

The Title VI Complaint Officer will submit findings and conclusions to TDEC Civil Rights Champions. The Assistant Commissioner will issue a decision on the investigation findings and conclusions. Decisions made by the Assistant Commissioner can be appealed to the Commissioner within 30 days of receipt of the decision.

A complaint may be filed with the appropriate Federal agency no later than 180 calendar days after the alleged discrimination occurred.

Citizen suits remain an option in this process.

TDEC's toll free hotline (1-888-891-8332), accessible statewide, is maintained and available for complaints.

26. Please provide a breakdown of current board staff by title, ethnicity, and gender.

Michael K. Burton, Supervisor, Caucasian, Male

Christine Vaughn, Secretary, Caucasian, Female

Glenn Burke, Environmental Specialist IV, Caucasian, Male

Jeff Patton, Environmental Specialist IV, Caucasian, Male

27. Please list all board contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

None.